

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23411 of 2005

Between:

Gorige Mala Kondaiah

..... PETITIONER

AND

District Collector,
Prakasam District Ongole and 3 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 2nd respondent in dismissing the Appeal vide proceedings Rc.No.CS2/5035/2004, dated 29.09.2005 filed against the proceedings RCF No.1972/2004, dated 07.10.2004 passed by the 3rd respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

It is stated that the petitioner is a Fair Price Shop Dealer of Palurivari Palli village, Kanigiri Mandal, Prakasam District for the last 20 years and he has been distributing the essential commodities to the cardholders as per the price fixed by the Government and there are no complaints whatsoever against him. While so, the Fair Price Shop dealership of the petitioner was suspended by proceedings dated 07.10.2004 issued by the 3rd respondent on the ground that the petitioner has not been residing in Palluruvari Palli village and he is residing in Thalluru village, and on the other ground that the petitioner has been distributing the essential commodities to the cardholders at higher rates other than fixed by the Government.

In so far as first charge is concerned, it is stated that Palurivari Palli village is the hamlet of Thalluru gram panchayat and the distance between the hamlet and the main gram panchayat is only one kilometer and there is no prohibition under any relevant rules and regulations for allotment of the fair price shop dealership. But, however, it is stated that the petitioner, in fact, is residing in Thalluru village, though he is not permanent of Palluruvari Palli village, there is no inconvenience ever caused to the cardholders in distributing the essential commodities. In so far as the other ground is concerned, it is stated that there is no enquiry and there are no incidents to point out that the petitioner has been distributing the essential commodities at higher rate other than fixed by the Government. However, I am of the opinion that these are the disputed question of facts, which have to be enquired into at the time of enquiry alone. But the fact remains is that against the suspension order

of the 3rd respondent, the petitioner has filed an appeal before the 2nd respondent and when the 3rd respondent dismissed the stay application, the petitioner filed W.P.No.24686 of 2004 before this Court, and this Court disposed of the said writ petition by order dated 29.12.2004, observing that there are no allegations against the petitioner that he has diverted the essential commodities to black market or indulged in any unlawful activities, and therefore, granted stay of the suspension order dated 07.10.2004 issued by the 3rd respondent herein pending disposal of the appeal by the 2nd respondent herein. Thereafter, the 2nd respondent passed the impugned order dated 29.09.2005 confirming the suspension order passed by the 3rd respondent dated 07.10.2004, which was pending enquiry. Against which, the petitioner filed a revision before the 1st respondent.

The main proceedings as regards to the allegations against the petitioner have not been decided and the order dated 07.10.2004 is only suspension pending enquiry.

Having regard to the facts and circumstances of the case, as there was stay of the impugned order dated 07.10.2004, the impugned order dated 29.09.2005, confirming the suspension of the fair price shop dealership of the petitioner pending enquiry, is hereby stayed, pending disposal of the revision by the 1st respondent. It is needless to mention that pending disposal of the revision by the 1st respondent, it is left open for the 3rd respondent to complete the enquiry against the petitioner and pass appropriate orders, in accordance with law.

With the above observations, the Writ Petition is disposed of. No order as to costs.

V.ESWARAIAH,J

Dated: 31.10.2005

Dsr

Note:

Issue CC in two days

B/o

Dsr

